UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

JAN 22 2009

Ref: 8EPR-N

Russell George
Executive Director
Colorado Department of Transportation
4201 E. Arkansas Avenue
Denver, CO 80222

Karla Petty, P.E.
Division Administrator, Colorado Division
Federal Highway Administration
12300 West Dakota Avenue, Suite 180
Lakewood, CO 80228

Terry J. Rosapep
Regional Administrator, Region 8
Federal Transit Administration
12300 West Dakota Avenue, Suite 310
Lakewood, CO 80228-2583

Re: I-25 Corridor from Fort Collins-Wellington area to Denver: Draft Environmental Impact Statement (DEIS): CEQ# 20080436

Dear Mesdames and Messrs. George, Petty, and Rosapep:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) 42 U.S.C. Section 4231 et. seq., and Section 309 of the Clean Air Act , 42 U.S.C. Section 7609, the U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the I-25 Corridor Draft Environmental Impact Statement (DEIS).

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), in cooperation with the Colorado Department of Transportation (CDOT) developed this DEIS to evaluate long-term travel needs between the Denver metropolitan area and Ft. Collins along I-25. The DEIS identifies and evaluates two multimodal transportation alternatives in addition to the no action alternative for the 61 mile corridor extending from Ft. Collins/Wellington Area to Denver. The study area of this project includes 38 incorporated

communities, including the major population centers of Fort Collins, Greeley, Loveland and communities in the northern portion of the Denver metropolitan area. The corridor extends from Fort Collins Wellington area to Denver (Adams, Boulder, Broomfield, Denver, Jefferson, Larimer, and Weld Counties.) Two multi-modal build packages (Packages A and B) were evaluated. Highway improvements considered as part of the multi-modal packages include highway widening and interchange reconstruction. Transit improvements considered include commuter rail, commuter bus, and bus rapid transit on three different alignments.

Package A adds one additional general purpose lane on I-25 in each direction, for a total of six lanes from State Highway (SH) 66 to SH 14 and a total of eight lanes from E-470 to SH 52. Interchange reconstructions would be included. Package A also includes a double tracked commuter rail line using the existing Burlington Northern Sante Fe (BNSF) railroad track plus one new track from Fort Collins to downtown Loveland. A new double-tracked commuter rail line would connect Longmont to the FasTracks North metro end-of-line station in Thornton. Package A would also include nine commuter rail stations and a commuter rail maintenance facility; a commuter bus maintenance facility and feeder bus routes along five east-west routes; and commuter bus service along US 85 between Greeley and downtown Denver and along E-470 from US 85 to Denver International Airport (DIA).

Package B adds one buffer-separated tolled express lane to I-25 except for the section between SH 60 and Harmony Road, where two barrier-separated lanes would be added. Tolled express lanes (TEL) would extend from SH 14 to 84th Avenue in Thornton and would be used by high-occupancy vehicles for free, by single-occupancy vehicles if they pay a toll, and by buses. Interchange reconstructions would be included. Twelve bus stations would provide service along I-25, US 34 into Greeley, and Harmony Road into Fort Collins. Package B also would include bus maintenance facility and feeder bus routes along five east-west streets. In addition, bus service would be provided along E-470 from I-25 to Denver International Airport.

EPA has reviewed the DEIS and has three primary concerns which are briefly highlighted in this letter: air quality, wetlands, and visibility. The enclosed "Detailed Comments" provide more discussion of our concerns. These comments are principally focused on improving the disclosure of cumulative impacts on air quality and wetlands.

A particular concern in the air quality section is the absence of a cumulative analysis of sources of volatile organic compounds (VOC) and nitrogen oxides (NOx) other than those from transportation projects. EPA recommends that sources of VOC and NOx emissions from oil and gas, stationary sources, non-road mobile sources and general area sources be included in this analysis. It appears that existing data and analysis may be available for inclusion in the FinalEIS.

In addition, the wetland analysis does not disclose any potential difference in cumulative wetlands impacts between the action alternatives. Further, there is no discussion whether the two alternatives would result in different land use patterns affecting wetlands. EPA recommends that the FEIS include such discussion of cumulative impacts and disclosure of differing land use development patterns and their foreseeable impacts to wetland resources.

We have also included comments regarding protection of visibility in Federal Class I areas (Rocky Mountain National Park). EPA recommends that the FEIS describe regulatory requirements for protecting visibility in Federal Class I areas and the status of visibility degradation in Rocky Mountain National Park (RMNP). Much of this information is contained in the Colorado State Implementation Plan and the Rocky Mountain National Park Nitrogen Deposition Reduction Plan (RMNPNDRP). The DEIS notes that future emissions of nitrates and sulfates from on-road mobile sources (which contribute to visibility degradation) are projected to decrease but that ammonia emissions from on-road mobile sources are projected to increase. The direct and cumulative impacts of the increased ammonia and the significance of its contribution to nitrogen deposition in the RMNP should be disclosed. EPA recommends that the FEIS describe mitigation measures for reducing ammonia emissions from not only on-road mobile sources, but also from point and area sources. Mitigation measures for reducing ammonia emissions in the project area are included in the RMNPNDRP, Memorandum of Understanding between the National Park Service, the EPA and the Colorado Department of Public Health and Environment. Inclusion of these mitigation measures in the FEIS and Record of Decision will serve to alert agencies or officials who can implement them and will encourage them to do so. These concerns are also discussed in further detail in the attached comments.

Pursuant to EPA policy and guidance, EPA rates the environmental impact of an action and the adequacy of the NEPA analysis. Since a preferred alternative has not yet been identified, EPA has rated both action alternatives, Package A and Package B, as " EC-2 " (Environmental Concerns-Insufficient Information). This "EC" rating means that impacts have been identified that should be avoided in order to fully protect the environment. The "2" rating means that clarifying language or information may be necessary. An explanation of the rating criteria is enclosed. Although we have rated these action alternatives the same, we note that they may result in different induced changes in the pattern of land use, population density or growth rate. EPA notes that Package A appears to facilitate transit oriented development in an existing urban area leading to more pedestrian friendly neighborhoods and less dependency on private vehicles for shopping and work related trips. In addition, Package A appears to have fewer impacts to wetlands, floodplains, wildlife and aquatic species, and threatened and endangered species, when compared to Package B.

EPA appreciates the opportunity to review this project. We also acknowledge the complexities in designing multi-modal alternatives such as this one in a manner that meets the purpose and need, considers and mitigates environmental impacts and attempts to meet the needs of the local communities (which are often conflicting). We have attached a list of concerns by

resource area where clarifying language or information is suggested. If you have any questions or would like to discuss our comments, please contact me at (303) 312-6004 or Robin Coursen of my staff at (303)312-6695.

Sincerely,

Larry Svoboda
Director, NEPA Program
Office of Ecosystems Protection and Remediation

Enclosure

cc: Robert J. Garcia, P.E.
Region 4 Transportation Director
Department of Transportation
1420 2nd Street
Greeley, CO 80631

Pamela A. Hutton, P.E.
Chief Engineer
Colorado Department of Transportation
4201 East Arkansas Ave.
Denver, CO 80222

Monica Pavlik, FHWA
Carol Parr, CDOT

EPA's DETAILED COMMENTS ON THE I-25 CORRIDOR DEIS

Air Quality

Nonattainment Designation:

- Pg. 3.5-1, Section 3.5 Air Quality – We recommend that this section be revised to discuss the designation of the Denver-metropolitan and North Front Range area as a nonattainment area. This nonattainment designation was a result of a violation of the federal 1997 8-hour 0.080 ppm ozone standard and was effective on November 20, 2007. A detailed plan to reduce ozone has been developed by the Colorado Air Pollution Control Division, along with the Regional Air Quality Council, Denver Regional Council of Governments, and the North Front Range Metropolitan Planning Organization. The resulting attainment plan was submitted by the Regional Air Quality Council to the Colorado Air Quality Control Commission and was approved on December 12, 2008, with legislative review expected in early 2009, and as per Court settlement, submitted to EPA by not later than July 1, 2009. The plan will require further reductions on ozone levels beyond what was previously required.

Mobile Source Air Toxics:

- Page 3.5-7, Mobile Sources Air Toxics (MSAT) section: EPA has made its disagreements with regard to FHWA guidance, and its inclusion in many transportation project EISs, known over the last few years. We continue to disagree with many of the statements in this mobile sources air toxics section such as technical shortcomings of current EPA regulatory models. We do note that much of this language is included from earlier CDOT transportation EISs; however, we note that section 3.5.3.5 of the document does contain relevant information regarding MSAT emissions data (presented in Table 3.5-16.) Table 3.5-17 contains a beneficial, extensive list of potential MSAT receptors (i.e., schools, churches, hospitals, etc.) Also, the MSAT analysis findings on pages 3-5.39 and 3-5.40 are valuable.

- Page 3.5-12, fourth paragraph, last sentence: States that "Regional studies" indicate mobile source ammonia (NH_3) emissions will grow to over 3,700 tons by 2018. Are these "studies" the Taipale 2006 reference on page 3.5-13? Also, were NH_3 emissions from the project calculated using EPA's MOBILE6.2 model in order to evaluate the project's emissions contribution as a component of the stated 3,700 tons per year figure for 2018?

PM_{10} and $PM_{2.5}$:

- Page 3.5-14, section 3.5.3.1 and Tables 3.5-3, 3.5-4, 3.5-5, 3.5-6, and 3.5-7: With respect to PM_{10} emissions in this section and tables, it's unclear if re-entrained road dust, tire wear and brake wear emissions were included with the PM_{10} emission figures. This does not appear to be the case as PM_{10} emissions decrease in all evaluations as compared to

2001 (we note that re-entrained road dust, tire wear and brake wear emissions are all dependent on VMT estimates used in the modeling.) Typically we see increases in PM_{10} emissions with projected increases in future year(s) VMT.

- Page 3.5-14, section 3.5.3.1 and Tables 3.5-3, 3.5-4, 3.5-5, 3.5-6, and 3.5-7: On October 17, 2006, EPA strengthened the 24-hour $PM_{2.5}$ standard (see 71 FR 61144, effective December 18, 2006.) Further, on December 22, 2008, EPA's Administrator signed the Final Rule for national designations of 24-hour $PM_{2.5}$ standard. The DEIS briefly discusses the revised standard in paragraph seven on page 3.5-2, noting that sources of $PM_{2.5}$ emissions "... include all type of combustion, including motor vehicles, particularly diesel exhaust ...", and reflects the revised standard in Table 3.5-1. A discussion should be provided and $PM_{2.5}$ emissions should be considered with emission figures included in the above referenced tables. As applicable for the other criteria pollutants, EPA's MOBILE6.2 can calculate $PM_{2.5}$ emissions (see page 55 of the "User's Guide to MOBIILE6.1 and MOBILE6.2"; EPA420-R-03-010, August, 2003.)

Indirect Effects:

- Page 3.5-42, Section 3.5.3.7. This section states that the incremental growth (ie. Induced growth) due to the planned proposals, would be less that 1%. This number appears to be low given the level of interest in this project by the Front Range communities and the general knowledge that one of the reasons for highway expansion is to spur economic development. EPA recommends that the methodology showing the analysis for 1% incremental growth be presented in the EIS.

Cumulative Effects:

- Federal Class 1 Area – Regional Haze: EPA recommends that the FEIS describe regulatory requirements for protecting visibility in Federal Class 1 areas and the status of visibility degradation in Rocky Mountain National Park. The Colorado State Implementation Plan (SIP) for Regional Haze discusses the current status of regional haze in Rocky Mountain National Park and the regulatory requirements for reducing regional haze. The SIP presents an emissions inventory for nitrate and sulfate emissions which, when combined with ammonia, can form nitrate and sulfate aerosols that contribute to regional haze. EPA agrees with the draft EIS statement that future emissions of nitrates and sulfates from on-road mobile sources are projected to decrease whereas future emissions of ammonia are projected to increase. Section 3.5.4, Mitigation Measures should present approaches for reducing ammonia emissions from not only on-road mobile sources, but also from point and area sources. As stated in NEPA's 40 Most Asked Questions, an agency can suggest mitigation even if the mitigation is outside its jurisdiction. (See www.nepa.gov/nepa/regs/40 Question 19b.)

- Federal Class 1 Area - Nitrogen Deposition in the Rocky Mountain National Park. Section 3.5.2.4. EPA recommends that Section 3.5.2.4 provide a more thorough analysis of the potential for on-road mobile sources to contribute to nitrogen deposition in Rocky Mountain National Park. Please discuss what the limiting factor is for ammonium nitrate formation in the atmosphere of the Front Range. If nitrates are the limiting factor, then

there should be less ammonium nitrate formation since region-wide NOx emissions are decreasing. If ammonia is the limiting factor, then even with a reduction of NOx emissions, there may be more ammonium nitrate formation. Also, please state which alternative (Package A or B) would have the lowest ammonia emissions.

Mitigation Measures:

- Section 5.3.5.4 Mitigation Measures. EPA recommends that the FEIS describe mitigation measures for reducing ammonia emissions from not only on-road mobile sources, but also from point and area sources. Mitigation measures for reducing ammonia emissions in the project area are included in the RMNPNDRP, Memorandum of Understanding (MOU) between the National Park Service, the EPA and the Colorado Department of Public Health and Environment. Inclusion of these mitigation measures in the FEIS and Record of Decision will serve to alert agencies or officials who can implement them and will encourage them to do so. The website for this MOU document is as follows: http://www.cdphe.state.co.us/ap/rmnp/NDRPAugust07.pdf .

- Page 3.5-43, Section 3.5.4 – EPA recommends that another potential regional/ local agency strategy for reducing air pollution in the project area is a vehicle purchase/recycle program to get highly polluting vehicles off the road.

Other Technical Air Comments:

- Page 3.5-17, last paragraph: EPA recommends updating this paragraph with respect to EPA's designation of the project area as nonattainment for the 8-hour 0.08 ppm ozone ambient air quality standard on November 20, 2007. Also, as we noted above, a detailed plan to reduce ozone has been developed by the Colorado Air Pollution Control Division, along with the Regional Air Quality Council, Denver Regional Council of Governments, and the North Front Range Metropolitan Planning Organization. The resulting attainment plan was submitted by the Regional Air Quality Council to the Colorado Air Quality Control Commission and was approved on December 12, 2008, with legislative review expected in early 2009, and as per Court settlement, to be submitted to EPA by no later than July 1, 2009. In addition, this section should also discuss the new 0.075 ppm 8-hour ozone standard that was issued on March 12, 2008 (see also 73 FR 16436, March 27, 2008.)

- Page 3.5-4, third paragraph, third sentence. This sentence should be expanded with: "Ambient air quality data for 2005 to 2007, from monitors located within the Early Action Compact (EAC) area, showed exceedances that determined a violation of the 8-hour 0.08 ppm ozone standard."

- Page 3.5-6, Ozone bullet, second sentence. EPA suggests changing the language to: "Concentrations at monitoring stations throughout the regional study area returned to levels below the 8-hour 0.08 ppm ozone standard after the 2003 peak; however, ozone levels again increased above the ozone standard based on 2005 to 2007 data."

- Page 3.5-3, Table 3.5-1. There are new lead and ozone national ambient air quality standards that have recently been promulgated. The new lead standard that became effective on Oct. 15, 2008 is 0.15µg/m^3 over a rolling 3 month average. The lead primary and secondary standards are the same. The new 8-hour ozone standard is 0.075 ppm which, like the previous ozone standard, is the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentration. In addition, EPA revoked the annual PM_{10} standard effective 12/18/2006.

- Page 3.5-3, last sentence. "Violations are determined by a prescribed number of exceedances of the particular standard." EPA recommends adding "over a specific interval of time" at the end of the sentence.

- Page 3.5-4, second paragraph, second sentence. EPA suggests correcting the following sentence to read: "Dispersion and point source air quality modeling, in support of the attainment demonstration, have established emission levels for the *2006* base year and *2010* attainment year."

- Page 3.5-35, Table 3.5-17. The table is an excellent representation of the distance between potentially sensitive populations and the highway. This information is important for the general public's knowledge and for future urban planning.

- Page 3.5-4, Section 3.5.2, last sentence. EPA recommends to delete "to designate" from the sentence "EPA has designated ~~to designate~~ the area as non-attainment."

Greenhouse Gases and Pollution Prevention

EPA believes that the discussion in Section 3.21 (Energy) that calculates the differences in energy consumption between the two alternatives and No Action as well as the calculations of greenhouse gas emissions among the three alternatives is helpful and we are pleased that a discussion of greenhouse gas emissions resulting from transportation sources is presented in this section. In addition, Section 3.26 Cumulative Impacts includes a beneficial table that describes and discloses the relationship of current and projected Colorado highway emissions to total global carbon dioxide emissions. Inclusion of project corridor VMT relative to statewide travel activity depicts the project in a global perspective for carbon dioxide emissions.

Water Resources

Storm Water

- Eleven Municipal Separate Storm Sewer systems (MS4s) are crossed by this project. EPA encourages CDOT to share information on maintenance and design of post-construction Best Management Practices (e.g., sediment basins) that are within the municipalities with MS4 programs.

- Package A does not meet CDOTs New Development and Redevelopment Program requirements to treat either 100% of the water quality capture volume or remove 80% of total suspended solids. It is noted in Part 3.7 that 90.7% of the impervious area is treated in Package A. Should Package A be selected, additional BMPs would be necessary to

ensure that 100% of the water quality capture volume is treated from the newly developed impervious surfaces.

Clean Water Act Section 404 – Discharge of Dredged or Fill Material into Waters of the U.S.

- Clean Water Act (CWA) Section 404 regulates the discharge of dredged or fill material into waters of the United States, including certain wetlands and other waters. Under CWA Section 404, permits for such discharges are generally issued by the U.S. Army Corps of Engineers (Corps), in accordance with EPA's CWA Section 404(b)(1) Guidelines (40 C.F.R. Part 230) (Guidelines). The Guidelines require among other things, that no discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem (40 C.F.R. 230.10(d)). The Corps cannot issue a permit for a project that is not the least environmentally damaging practicable alternative (LEDPA) after completing the Guidelines analysis. EPA understands the Corps will rely on this EIS to comply with the Guidelines in issuing any CWA Section 404 permits associated with this project. EPA will evaluate and provide comments to the Corps for any CWA Section 404 permit applications associated with this project. Comments may include sufficiency of the alternatives analysis, impacts of the project to water resources including wetlands, and potential mitigation plans.

- The difference in wetland impact acreages between the two action alternatives is minimal (around 1 acre). In this situation, determining the LEDPA becomes more difficult. The LEDPA appears to be Alternative/Package A strictly due to the acreage of wetland impacts (19.34 v. 20.38 acres), however, the issue of other significant adverse environmental impacts must also be considered (40 CFR 230.10(a)). The Section 404(b)(1) Guidelines (Part 230.10(a)) state, in part, that no discharge shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic environment, "so long as the alternative does not have other significant adverse environmental consequences." Therefore, if air quality or water quality impacts are greater with Package A and rise to the level of significance, the Corps of Engineers needs to consider whether Alternative/Package A is still the LEDPA. Other environmental impacts resulting from the two alternatives should be taken into consideration to determine the LEDPA and may include (but are not limited to) air quality impacts, storm water development and associated water quality impacts, potential cumulative impacts to wetlands resulting from each alternative, etc.

- The document (page 3.26-30) does not adequately disclose any potential difference in cumulative (reasonably foreseeable development) wetlands impacts between the action alternatives. There is no discussion of whether the two alternatives would result in different land use patterns affecting wetlands. Some effort should be made to disclose transportation mode and related land use development patterns, and foreseeable impacts to wetland resources. An excellent example can be found in the US 36 DEIS.

- Executive Order 11990 – Protection of Wetlands (May 24, 1977) states in pertinent part as follows: "Section 1.(a) Each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. (b) This Order does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property."

U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements
Definitions and Follow-Up Action*

Environmental Impact of the Action

LO - - Lack of Objections: The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC - - Environmental Concerns: The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO - - Environmental Objections: The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU - - Environmentally Unsatisfactory: The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 - - Adequate: EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 - - Insufficient Information: The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 - - Inadequate: EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.